

NORTH 27TH AND "S" TO "T" STREETS REDEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, 2001, by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as "City") and TJK Investments, Inc., a Nebraska corporation, hereinafter referred to as "Redeveloper".

RECITALS

WHEREAS, The City has undertaken a program for the redevelopment of blighted and substandard areas in the City of Lincoln, Nebraska, and as part of that program the City has prepared and approved the North 27th Street Redevelopment Plan (Redevelopment Plan) providing for redevelopment in the City of Lincoln in the vicinity of North 27th and "S" to "T" Streets, a copy of which, together with any and all amendments thereto, is on file in the Office of the City Clerk of the City (City Clerk); and

WHEREAS, the City is the owner of the real estate on the west side of 27th, but east side of the block between "S" and "T" Streets, Lincoln, Lancaster County, Nebraska (Project Site) more particularly described on Attachment "A" hereto and incorporated herein by this reference; and

WHEREAS, on March 29, 2000, TJK Investments, Inc. submitted a Proposal for Redevelopment to the City (Proposal for Redevelopment), in response to the City's Request for Proposals, Specification No. 00-060, with respect to the redevelopment of the Project Site; and

WHEREAS, the City and Redeveloper desire to enter into this agreement to implement the redevelopment of the Project Site for the purposes in accordance with the Redevelopment Plan; and

WHEREAS, the City and Redeveloper mutually agree that the redevelopment of the Project Site is in the vital and best interest of the City and is in furtherance of the health, safety, and welfare of its residents, and is in accordance with the public purposes and provisions of applicable laws and requirements under which the Redevelopment Plan has been undertaken.

NOW THEREFORE, for and in consideration of the recitals set forth above and the mutual representations, warranties and covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE I. REDEVELOPER'S RESPONSIBILITIES

Section 101. Redeveloper's Responsibilities. The Redeveloper, at its own cost and expense, shall purchase the Project Site in fee simple, subject to easements and restrictions of record including the covenants agreed to be placed according to this Agreement, and to develop the Project Site as follows:

A. Private Improvements. The project site shall be developed for use as professional and/or retail space consisting of an approximately 18,041 square foot building with related improvements including, but not limited to, landscaping and parking, to be called Sterling Village, which improvements are intended to provide for the employment of additional employees, subject to economic conditions.

The above described development of the project site is hereinafter referred to as "Private Improvements".

B. Construction Development. The Redeveloper has prepared construction plans and specifications (hereinafter the Construction Documents) for the Private Improvements. Such Construction Documents have been submitted to and have been determined by the City's Director of Urban Development as being in compliance with the North 27th Street Redevelopment Plan and this Agreement. The Director of Urban Development shall, without exception, have final design review authority to ensure compatibility with other redevelopment projects in the redevelopment area and to ensure the protection and enhancement of the adjacent neighborhood. Final design review authority includes all site improvements including landscaping plans.

C. Changes in Construction Documents. The Redeveloper shall submit any material changes in the Construction Documents for approval or disapproval to the Director of Urban Development. If the Construction Documents, as modified by the proposed change, are deemed by the Director to be in conformity with the North 27th Street Redevelopment Plan and this Agreement, the Director shall approve the proposed change and notify the Redeveloper in writing of its approval. Otherwise, the Director shall, after receipt of such proposed changes, disapprove the proposed change and shall notify the Redeveloper of the specific areas of wherein such changes are not in conformance with the Project. The Redeveloper may resubmit the changes after correction to eliminate the items of nonconformance.

Section 102. Construction of Improvements. The Redeveloper, at its cost, shall construct the Private Improvements on the Project Site as described above in conformity with the Construction Documents as previously submitted to the Director of Urban Development or any approved changes thereto, and with design standards mutually agreeable to the City and the Redeveloper.

Section 103. Time for Completion of Improvements. The development and construction of the Private Improvements (except for tenant finish within the buildings) shall be completed within one (1) year after the Closing Date (as hereinafter defined).

Section 104. Progress Reports. The Redeveloper shall make reports in such detail and at such times as may be reasonably requested by the City as to the actual progress of the Redeveloper with respect to construction of the Private Improvements, but such reports shall not be required more frequently than every ninety (90) days.

Section 105. Redeveloper's Certificate of Completion.

A. Promptly after completion by Redeveloper of the Private Improvements on the Project Site, as specified above, in accordance with all provisions of this Agreement, the City shall, upon request of such Redeveloper, cause a final inspection to be made of the Private Improvements required to be constructed by the Redeveloper. If the improvements have been completed in conformance with the approved Construction Documents and this Agreement, the City shall issue to Redeveloper a Certificate of Completion, the form of which is attached hereto and marked as Attachment "B". The issuance of the Redeveloper's Certificate of Completion by the City shall be a conclusive determination of satisfaction of the agreements and covenants contain in this Agreement with respect to the obligations of the Redeveloper and its successors and assigns to construct the Private Improvements as shown on the approved Construction Documents and any amendments thereto. As used herein, the term "completion" shall mean substantial completion of the required Private Improvements.

B. The Redeveloper's Certificate of Completion shall be recorded by the Redeveloper in the Office of the Register of Deeds for Lancaster County, Nebraska. If the City shall refuse or fail to issue a Redeveloper's Certificate of Completion after a final inspection has been requested and performed, the City shall, within thirty (30) days provide the Redeveloper with a written statement indicating in what particulars the Redeveloper has failed to complete the Private Improvements in accordance with the provisions of this Agreement or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

Section 106. Contractors: Bonds, Insurance, Ability to Perform.

A. **Penal Bond.** Any contractors chosen by the Redeveloper to construct any of the Private Improvements on the Project Site shall be required to furnish, prior to commencement of construction, a \$10,000 penal bond with a corporate surety authorized to do business in the State of Nebraska or a \$10,000 deposit with the City Clerk in form acceptable to the City. Such penal bond will be conditioned upon the Redeveloper's contractor at all times promptly making payment of all amounts lawfully due to all persons supplying or furnishing the contractor or his or her subcontractors with labor or materials

performed or used in the prosecution of the work provided for in the construction contract. Proof of such penal bond shall be supplied to the City prior to the construction of the Private Improvements.

If requested by the City, the Redeveloper shall, in addition to such contractor's penal bond, obtain and supply the City with lien waivers from all contractors, subcontractors and suppliers performing any work on the Private Improvements or supplying any goods for construction of the Private Improvements. In addition, the City shall be entitled to inspect at reasonable times all records of the Redeveloper, or its agents regarding such lien waiver procedures.

B. Insurance. Any general contractor chosen by the Redeveloper, or the Redeveloper itself, shall be required to obtain and keep in force at all times until completion of construction, policies of insurance including coverage for contractors' general liability, standard blasting or explosion, completed operations, worker's compensation and employer liability, and automobile liability. The minimum acceptable limits of liability to be provided by such insurance shall be:

(1) Public Liability Insurance

Bodily injury	-	\$1,000,000 per person
Damage	-	\$1,000,000 each occurrence
Personal Injury Damage	-	\$1,000,000 each occurrence
Contractual Liability	-	\$1,000,000 each occurrence
Products Liability and Completed Operations	-	\$1,000,000 each occurrence

The Public Liability Insurance required by the preceding paragraph shall include the following extensions of coverage:

- (a) The coverage shall be provided under a Commercial General Liability form or similar thereto.
 - (b) X.C.U. Coverage - if the contract requires any work procedures involving blasting, excavating, tunneling, or other underground work, the liability coverage shall include Standard Blastings or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverages commonly referred to as XCU Property Damage Liability.
 - (c) The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
 - (d) Contractual Liability coverage shall be included.
 - (e) Products Liability and/or Completed Operations coverage shall be included.
 - (f) Personal Injury Liability coverage shall be included.
- (2) Automobile Liability Insurance
- | | | |
|--------------------------------------|---|-----------------------------------|
| Bodily Injury and
Property Damage | - | \$1,000,000 combined single limit |
|--------------------------------------|---|-----------------------------------|

- | | |
|-----|---|
| (3) | Workman's Compensation Insurance and Employers' Liability Insurance |
| | State Statutory |
| | Applicable Federal Statutory |
| | Employer's Liability \$100,000 |

Any general contractor chosen by the Redeveloper, or the Redeveloper itself, shall be required to purchase and maintain property insurance upon the Project Site to the full insurable value thereof. This insurance shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage. The general contractor or contractors, or the Redeveloper, as the case may be, shall furnish the City with a Certificate of Insurance evidencing policies as required above. Such certificates shall specifically indicate that the liability insurance includes all extensions of coverage required and shall state that the insurance company or companies shall give the City at least thirty (30) days written notice in the event of cancellation of, or material change in, any of the policies. The City and Redeveloper shall be named as an additional insured on all such policies of liability insurance.

C. Ability to Perform. The Redeveloper, in choosing any contractor for construction of the Private Improvements on the Project Site, shall do so in part on the basis of ability to perform such contracts.

Section 107. Evidence of Financial Ability of Redeveloper. The Redeveloper shall provide to the City evidence of availability of finances necessary for purposes of carrying out the commitment of the Redeveloper in connection with the Proposal for Redevelopment. Such information shall state the amount and source of debt financing, if any, which is available, or committed, to the Redeveloper for use in the Proposal for Redevelopment.

Submittal of such financial information to the Director of Urban Development of the City shall be a condition precedent to the City's obligations under Article VI of this Agreement.

ARTICLE II CLOSING

Section 201. Closing. The conveyance of the Project Site from the City to the Redeveloper (Closing) shall be consummated on a date mutually agreeable to the City and the Redeveloper (Closing Date); provided, however, that in no event shall the Closing Date be later than thirty (30) days after the later of (i) the completion and final approval of the Administrative Replat (as hereinafter defined) or (ii) satisfaction of the City's obligations under Article VI of this Agreement (Closing Deadline).

Section 202. Title and Possession of Project Site. At Closing, title to and possession of the Project Site shall be conveyed by the City to TJK Investments, Inc. under

the terms and conditions set forth herein. The City shall be responsible for the documentary stamp tax, if any, incurred upon recording the warranty deeds for the Project Site at Closing.

Section 203. Administrative Replat. The City hereby agrees to cause the Project Site to be replatted and incorporated herein by this reference (Administrative Replat). The City shall bear all costs associated with the Administrative Replat including, but not limited to, the cost of the professional engineering services necessary in order to accomplish the Administrative Replat.

Section 204. Title Insurance. The Redeveloper shall obtain a Commitment for an Owner's Policy of Title Insurance (Commitment) with no general exceptions and only such special exceptions as may be approved by Redeveloper to be issued by a title insurance company licensed to do business in the State of Nebraska selected by the Redeveloper (Title Company), pursuant to which the Title Company agrees to issue to the Redeveloper an American Land Title Association (ALTA) Owner's Policy of Title Insurance. The premium for the title insurance policy issued pursuant to the Commitment (Title Policy) and the fees of the title insurance agency to close this transaction shall be paid one-half by the Redeveloper and one-half by the City.

Section 205. Closing Documents.

A. **Deliveries at Closing by the City.** At Closing the City shall deliver to the Redeveloper, and the Redeveloper shall accept from the City, the following:

1. A duly executed and acknowledged warranty deed in form and substance reasonably acceptable to Redeveloper, conveying and assigning to TJK Investments, Inc., good, marketable and indefeasible fee simple title to the Project Site, free and clear of deeds of trust, mortgages, liens, encumbrances, leases, tenancies, licenses, security interests, covenants, conditions, restrictions, judgements, rights-of-way, easements, encroachments and any other matters affecting title, except easements and restrictions reflected on the Administrative Replat and approved by Redeveloper.

2. Such affidavits, statements and other documents as are reasonably required by the Title Company in order to issue the Title Policy in accordance with the Commitment.

B. **Documents to be Delivered by Redeveloper.** At Closing the Redeveloper shall deliver to the City, and the City shall accept from the Redeveloper, good funds (as defined by law) payable to the City in the amount of Three Hundred Thousand and No/100 Dollars (\$300,000.00).

Section 206. Property Taxes and Assessments. All real and personal property taxes for the year in which Closing occurs shall be prorated as of the date of Closing, and

all prior years' taxes, interest and other charges, if any, shall either be exempt or paid in full by the City at or prior to Closing. At Closing, there shall be no special assessments levied or assessed against the Project Site for public improvements completed or commenced prior to Closing.

ARTICLE III. REPRESENTATIONS

Section 301. Development of the Project Site. The Redeveloper represents and agrees that its undertakings, pursuant to this Agreement, have been, are, and will be, for the purpose of redevelopment of such property and not for speculation in land holding.

Section 302. Restrictions on Assignments of Rights and Obligations. The Redeveloper represents and agrees that prior to issuance of the Redeveloper's Certificate of Completion by the City, and without the prior written approval of the City, there shall be no sale or transfer of the Redeveloper or assignment of rights or obligations under this Agreement to any party without the prior written approval of the City, other than mortgages and involuntary transfers by reason of death, insolvency, or incompetency. The City shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such approval, that:

A. Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Redeveloper;

B. Any proposed transferee, by instrument satisfactory to the City and in form recordable in the Office of the Register of Deeds, shall, for itself and its successors and assigns, and for the benefit of the City, have expressly assumed all of the obligations of the Redeveloper under this Agreement and agreed to be subject to all of the conditions and restrictions to which the Redeveloper is subject. No transfer of, or change with respect to ownership in the Redeveloper's interest in the Project Site or any interest therein, however consummated or occurring and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Project Site and the construction of the Private Improvements that would have occurred, had there been no such transfer or change;

C. There shall be submitted to the City for review, not less than seven (7) days prior to the proposed execution thereof, all instruments and other legal documents involved in the transfer; and if disapproved by the City, its disapproval shall be indicated to the Redeveloper in writing; and

D. The Redeveloper and its transferees shall comply with such other reasonable conditions as the City may find desirable in order to achieve and safeguard the

purposes of Proposal for Redevelopment; provided that in the absence of a specific written agreement by the City to the contrary, no such transfer or approval by the City shall be deemed to relieve the Redeveloper of any of its obligations with respect to the construction of the Private Improvements.

Nothing herein contained shall prohibit the Redeveloper from entering into any agreement to sell or other agreement as to transfer of any interest if such agreement can, by its terms only, become effective after the City has issued a Redeveloper's Certificate of Completion.

Section 303. Access. The City represents and agrees that, upon issuance of the Redeveloper's Certificate of Completion, the Project Site shall have access onto 27th Street (i) north and south bound at "T" Street and (ii) south bound at "S" Street.

Section 304. Signage. The City represents and agrees that Redeveloper shall be permitted to place a monument sign at the southeast corner of the Project Site and will be compatible and provide continuity with signage used at Pentzer Park at the north end of the redevelopment area.

Section 305. Use and Restrictions of the Property. Redeveloper's intended use of the Project Site shall comply with the Redevelopment Plan and any applicable zoning and local ordinances. The Redeveloper hereby represents and agrees that neither all or any portion of the Project Site shall be used, directly or indirectly, for the operation of 1) any business in which alcoholic beverages are sold for consumption on or off the premises, except for a business holding a liquor license designated as Class J under Nebraska Law (or any successor designation to the current Class J) may sell alcoholic beverages in accordance with their license. 2) any outdoor off-premise advertising specifically including billboards, signboards and related structures and appurtenances, except temporary signs advertising such lot is for sale or lease by the owner thereof, 3) any adult book store, adult theatre, adult amusement facility, or 4) any facility selling or displaying pornographic materials or having such displays. It is intended that each of the restrictions set forth herein shall run with the land and shall bind every person having any fee or other interest in the Project Site and shall inure to the benefit of the parties hereto and their successors and permitted assigns. The use restrictions set forth in this Section shall survive Closing. At Closing, the Redeveloper shall record permanent covenants against the Project Site with respect to the use restrictions set forth in this Section in the form attached hereto as Exhibit "C" attached hereto and incorporated herein by this reference.

Section 306. Permits and Approvals. Prior to Closing, Redeveloper agrees to secure all permits and licenses necessary for its intended use of the Project Site including, but not limited to, necessary building permits and inspections.

ARTICLE IV. MORTGAGE FINANCING; RIGHTS OR MORTGAGEES

Section 401. Limitation Upon Encumbrance of Property. Cornhusker Bank shall have prior liens upon the Project Site. Prior to issuance of the Redeveloper's Certificate of Completion by the City, neither the Redeveloper nor any successors in interest to the Redeveloper shall engage in any additional financing, except for future advances authorized in the aforesaid prior liens, or any other transaction creating any mortgage or any other encumbrance or lien upon the Project Site, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Project Site, except for the purposes of obtaining funds only to the extent necessary to construct and develop the Private Improvements on the Project Site, and to finance, operate, maintain and repair the Private Improvements. All such additional mortgages and other encumbrances or liens shall provide that they are subject to the terms and conditions of this Agreement, and shall be recorded in the appropriate public records in a timely manner following their execution.

The Redeveloper or any successors in interest shall notify the City in advance of any additional financing secured by mortgage or similar lien instrument that it proposes to enter into with respect to the Project Site, and shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Project Site whether by voluntary act of any of the Redeveloper or otherwise.

Notwithstanding the above, if any involuntary encumbrance or lien is made on or attached to the Project Site and which is contested by Redeveloper, then Redeveloper may defend against such encumbrance or lien, provided that a sufficient bond, security or title insurance coverage insuring over such encumbrance or lien is posted with the City to permit the City to avoid foreclosure of such encumbrance or lien.

Section 402. Mortgages Obligated to Construct. Prior to the issuance of a Redeveloper's Certificate of Completion and if the holder of any mortgage authorized by this Agreement obtains title to any of the Project Site as a result of foreclosure proceedings or action in lieu thereof, or if any other party obtains title to the Project Site from the holder of any mortgage authorized by this Agreement, and any other party who thereafter obtains title to any of the Project Site from the holder of any mortgage authorized by this Agreement, and any other party who thereafter obtains title to any of the Project Site from or through such holder or purchaser, they shall be obligated by the provisions of this Agreement to construct or to complete the Private Improvements or to guarantee such construction and completion. Any such party shall be obligated to commence construction within two (2) months from the date of acquisition of title by said party as weather permits and to complete construction in accordance with this Agreement within (12) months from the date of such acquisition.

Section 403. Copy of Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper of its obligations or covenants in this Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by this Agreement at the last address of such holder as shown in the records of the City or as provided by such mortgagee.

Section 404. Mortgagee's Option to Cure Defaults. If thirty (30) days after notice or demand with respect to any breach of default as referred to in Section 403, such breach or default remains uncured, each such holder shall (and every mortgage instrument made prior to issuance by the City of the Redeveloper's Certificate of Completion for the applicable ownership shall so provide) have the right, at its option, to cure or remedy such breach or default within sixty (60) days after the notice or demand as referred to in Section 403, and to add the cost thereof to the mortgage debt and the lien of its mortgage. If the mortgage holder commences efforts to cure the default within such a period and the default cannot, in the exercise of due diligence, be cured within such period, the holder shall have the right to diligently continue to cure the default.

Section 405. City's Option to Purchase Property. In any case where the holder of any mortgage obtains title to the Project Site as a result of foreclosure proceedings or action in lieu thereof, prior to issuance by the City of the Redeveloper's Certificate of Completion, the City shall (and any additional mortgage instrument made after the date of this Agreement with respect to the Project Site prior to issuance by the City of the Redeveloper's Certificate of Completion for the applicable ownership shall so provide) be entitled, at its option, to a conveyance to it of the Project Site upon payment to such holder of an amount equal to the sum of:

(1) The mortgage debt at the time of foreclosure or action in lieu thereof (less all the appropriate credits including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(2) All expense with regard to foreclosure;

(3) The net expense, if any, incurred by such holder in and as a direct result of its subsequent management and operation of the Project Site;

(4) The depreciated cost of any improvement made by such holder;

(5) An amount equal to the interest that would have accrued on the aggregate of such amounts had all such amounts become a part of the mortgage debt and such debt had continued in existence; and

(6) All other reasonable holding costs actually incurred as to the Project Site.

The City's option shall remain in force for ninety (90) days after the date the holder of any mortgage obtains title to the Project Site and notifies the City, unless the City waives the option prior to the end of such 90-day period.

Section 406. Mortgage Rights Applicable to Other Forms of Encumbrance.

The rights and obligations of this Agreement relating to mortgages of the Project Site prior to issuance of the Redeveloper's Certificate of Completion shall apply to any other type of encumbrance on the Project Site, and any of the state rights, obligations, and remedies of any party relating to mortgage foreclosures shall be applicable to procedures under any deed of trust or similar method of encumbrance, all of which shall be duly recorded in a timely manner in the public records of Lancaster County, Nebraska.

Section 407. Termination of Provisions. The provisions of Article IV shall terminate upon issuance by the City to the Redeveloper the Redeveloper's Certificate of Completion.

**ARTICLE V.
TAX AGREEMENT**

Section 501. Valuation of Property Within the Project Site. It is understood that the City intends to use the ad valorem tax provisions as set forth in Neb. Rev. Stat. § 18-2147 et seq. in accordance with the Redevelopment Plan. The tax increment is to be derived from the increased valuation, determined in the manner provided for in Article 8, Section 12 of the Constitution of the State of Nebraska and in Neb. Rev. Stat. §§ 18-2147 to 18-2150 (Reissue 1987), which will be attributable in part to the rehabilitation and redevelopment contemplated under this Agreement.

Section 502. Restriction on Transfer. Redeveloper will not, for a period of fifteen (15) years after the issuance by the City to the Redeveloper of the Redeveloper's Certificate of Completion, or so long as the tax increment indebtedness remains outstanding, whichever period of time is shorter (tax increment period), convey the Project Site to any entity which would result in the underlying real estate being exempt from ad valorem taxes levied by the State of Nebraska or any of its subsidiaries.

Section 503. Agreement to Pay Taxes. Redeveloper agrees to pay all real property taxes levied upon the Project Site prior to the times such taxes become delinquent. This contractual obligation to pay such taxes prior to delinquency on the part of Redeveloper shall cease upon expiration of the tax increment period, but the City in no way waives the statutory obligation of Redeveloper to continue to pay real estate taxes.

Section 504. Damage or Destruction of Redeveloper's Property. During the tax increment period, Redeveloper agrees to keep the Private Improvements insured against loss or damage by fire, and such other risk, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the insurable value thereof based upon an estimate of insurable value but allowing for reasonable compliance with standard coinsurance clauses or \$1,100,000, whichever amount is greater. In the event of any insured damage or destruction, Redeveloper agrees to restore the Private Improvements to its prior condition within twelve (12) month from the date of the damage or destruction, and shall diligently pursue the same to completion.

Section 505. Condemnation. In the event that during the tax increment period all or a substantial portion of the Project Site is condemned by a condemning authority other than the City, and such condemning authority or its successor in interest, would not be obligated to pay real estate taxes upon that portion condemned, the City shall be entitled to claim against the condemning authority an interest in such property equal to the amount of tax increment received by the City in the preceding year times the number of years remaining in the tax increment period.

Section 506. Termination of Provisions. The provisions of Article V shall terminate upon the end of the tax increment period.

Section 507. Successors and Assigns. The provisions of Article V shall be binding upon Redeveloper and its successors and assigns; provided, however, that the obligations of Redeveloper pursuant to this Agreement shall be binding upon Redeveloper and its successors and assigns only during their respective periods of ownership.

ARTICLE VI. CITY IMPROVEMENTS AND CONTRIBUTIONS

Section 601. City Improvements and Contributions.

A. Prior to closing, the City, at its own cost and expense shall (i) replat the property to meet current platting standards; (ii) rezone the property to B-3; (iii) obtain an easement across the adjacent property to the north to provide ingress and egress access to and from the project site at "T" Street.

B. Upon substantial completion of the Private Improvements, the City, at its sole cost and expense, shall (i) repair and/or replace public sidewalks and damaged public curbs on the Project Site; and (ii) provide one-half (½) of the landscaping in public areas required to be installed on the Project Site; (iii) install a left turn lane in the northbound lane of 27th Street at "T" Street. The City's obligations under this subsection shall survive the closing of this Agreement.

It is understood and agreed that the City shall not be responsible for any of the cost to construct the Private Improvements except as otherwise provided herein.

Section 602. Contractor; Bond and Insurance. The City shall select a general contractor or contractors to construct or install the City Improvements described in Section 601 above in accordance with its competitive bidding procedures. Any such general contractor shall be required to provide a performance and payment bond in the amount of the contract, or otherwise enter into a guarantee of payment and performance as may be acceptable to the City. Any such contractor for the City Improvements shall be required to obtain and keep in force at all time until completion of construction policies of insurance, including coverage for contractor's general liability, including Standard Blasting or Explosion coverage, Standard Collapse coverage, Standard Underground coverage, completed operations, and automobile liability. The minimum acceptable limits of liability to be provided by such insurance is bodily injury liability of \$1,000,000 each person, \$1,000,000 each occurrence, property damage liability of \$1,000,000 each occurrence, or combine single limit (bodily injury and property damage) of \$1,000,000 each occurrence. Such insurance shall include the City, Redeveloper, and Cornhusker Bank as additional insureds. The contractor or contractors shall furnish the City and other insureds with a certificate of insurance evidencing policies as required above. Such certificates shall specifically indicate, that the public liability insurance includes all extensions of coverage required and shall state that the insurance companies shall give the City and the other insureds at least thirty (30) days written notice in the event of cancellation of or material change in any of the policies.

ARTICLE VII. REMEDIES

Section 701. In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions by the City, the Redeveloper, or any successors to such parties, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and in any event, such default or breach shall be cured within thirty (30) days after receipt of such notice, except that if such default or breach cannot, in the exercise of reasonable diligence, be cured within such 30-day period, then the defaulting party within such period shall commence efforts to cure such default and shall diligently continue to cure the same. In case such action is not cured as provided above, the aggrieved party may institute such proceedings as may be necessary or desirable in its option to cure and remedy such default or breach including, but not limited to, proceedings to seek recovery for damages or to compel specific performance by the party in default or breach of its obligation. Any curing of any default or breach by a mortgagee of Redeveloper shall be deemed to be a curing by Redeveloper. Any default or breach which cannot, by its nature, be cured in the time allowed shall be deemed cured if curing is commenced in the time allowed and diligently pursued to completion thereafter.

Section 702. Other Rights and Remedies; No Waiver by Delay. The parties hereto shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purposes of this Agreement. Any delay in instituting or prosecuting any action or proceeding or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights to deprive a party of or limit such rights in any way.

Section 703. Delay in Performance For Causes Beyond Control of Party. For the purpose of any provisions of this Agreement, the City and Redeveloper or their successors or assigns, shall not be considered in breach or default of their obligations in the event of delay in the performance of such obligations due to causes beyond their reasonable control and without their fault, including acts of God, acts of the public enemy, act of the federal or state government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of contractors, or subcontractors due to such causes (financial incapacity of the Redeveloper, contractors or subcontractors excepted); it being the purpose and intent of this section that in the event of the occurrence of any such delay, the time for performance of the obligations of either party with respect to construction of the improvements shall be extended for the period of delay, provided that in order to obtain the benefit of the provisions of this section, the party seeking the benefit shall, within twenty (20) days after the beginning of any such delay, notify the other party thereof, in writing, and of the cause(s) thereof.

Section 704. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative and the exercise by either party of any one or more such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for any other default or breach by the other party. A waiver of any right of either party conferred by this Agreement shall be effective only if such waiver is in writing and only to the extent as so specified in writing.

ARTICLE VIII. MISCELLANEOUS

Section 801. Conflicts of Interest; City Representatives Not Individually Liable. No officer or employee of the City shall have any personal interest, direct or indirect, in this Agreement. No official or employee of the City shall be personally liable to Redeveloper, any successors in interest or transferees of Redeveloper, or any other party or person, in consequence of any default or breach by the City or for any amount which may become due to Redeveloper, its successors or transferees, or on any obligations under the terms of this Agreement.

Section 802. Persons Authorized to Issue Approvals. For purposes of this Agreement and the approvals and disapprovals required hereunder, the Redeveloper shall be entitled to rely on the written approval or disapproval of the City Council, the Mayor, or

the Director of the Department of Urban Development or its successor as constituting the approval or disapproval required by any one or more of the City, Mayor, or the Director of the Department of Urban Development or its successor hereunder. Until City receives further written notice from TJK Investments, Inc., City shall be entitled to rely on the written approval of Kris Sonderup, as constituting the approval or disapproval of Redeveloper.

Section 803. Equal Employment Opportunity. Redeveloper, for itself and its successors and transferees, agrees that during the construction and operation of the Private Improvements provided for in this Agreement, Redeveloper will not discriminate against any employee or applicant for employment for the Proposal for Redevelopment because of race, religion, sex, color, national origin, ancestry, disability, marital status, or receipt of public assistance. Redeveloper will take affirmative action to ensure that applicants for the Proposal for Redevelopment are employed, and that employees are treated during employment without regard to race, religion, sex, color, national origin, ancestry, disability, marital status, or receipt of public assistance. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Section 804. Notices and Demands. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, in the case of TJK Investments Inc., to Kris Sonderup, 105 SW 92nd Street, Lincoln, Nebraska, 68532, in the case of the City, to the Mayor, 555 South 10th Street, Lincoln Nebraska 68508, or at such other address with respect to either party as that party may from time to time designate in writing and forward to the other as provided in this Section.

Section 805. Approval Not Unreasonably Withheld and Timely Approval. Whenever approval or consent of either party is required hereunder, such consent shall not be unreasonably withheld or delayed. Except as may be specifically otherwise stated, any approval or disapproval required in this Agreement shall be issued within fourteen (14) days after receipt by the party issuing such approval/disapproval of all necessary information from the party requesting such approval. The party issuing such approval/disapproval shall promptly advise the requesting party as to whether all necessary information has been received. If any party to this Agreement submits any item to another party to this Agreement for approval pursuant to this Agreement, and the approving party fails to issue written approval or disapproval within the time period specified for such approval or disapproval, then such failure shall constitute approval of such item.

Section 806. Access to Project Site. The Redeveloper shall permit the representatives of the City to enter all of the Project Site and at any and all reasonable times, as the City may deem necessary for the purposes of this Agreement, including but not limited to work and inspection of all work being performed in connection with the

construction of the Private Improvements. Similarly, City shall permit Redeveloper such entry upon the City's Property and public rights-of-way for such purposes. No compensation shall be payable nor shall any charges be made in any form by any party for the access or inspection provided for in this section. The City's right of access granted under this section shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion. Notwithstanding the above, Redeveloper shall not be relieved of the provisions contained in Chapter 14.29 of the Lincoln Municipal Code regarding the use of streets for private construction purposes.

Section 807. Termination of Provisions; Binding. The provisions and covenants of this Agreement shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion contemplated herein, except as otherwise set forth herein. This Agreement shall run with the Project Site and shall inure to and bind the undersigned parties, successors and assigns.

Section 808. Titles of Articles and Sections. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience of index and reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 809. Mutual Cooperation. The parties agree to mutually cooperate in constructing the various improvements each is construct in the Project Site so as to coordinate all timing to the extent reasonable, and further to facilitate opening of the facility at the earliest possible time.

Section 810. Integrated Contract; Severance of Provisions; Governing Law. It is intended by the parties that this Agreement and the incorporated, attached and referenced documents shall be an integrated contract, but that invalidation of any of its provisions by judgment or court order shall be in no way affect any other provisions which shall remain in full force and effect unless such court action shall materially change the intent of this Agreement. This Agreement shall be construed and governed by the laws of Nebraska.

Section 811. Conditions of Closing

A. The obligation of Redeveloper to proceed with the closing hereunder shall be subject to the City's prior satisfaction of the requirements and agreements set forth herein in this Agreement and this Section.

B. Feasibility studies. The Parties hereto agree that this Agreement and transfer of the property is to assist the City in inducing redevelopment of the subject property under the Community Development Laws of the State of Nebraska and the lawful authority of the City acting as a redevelopment authority or under its own authority as a political subdivision under the laws of the state of Nebraska and its home rule charter. Upon execution of this Agreement, Redeveloper, and its agents and contractors, will

conduct feasibility studies related to the property for a period of not to exceed 90 days ("Feasibility Review Period") for the purpose of performing environmental audits, soil tests, engineering and feasibility studies of the Property as Redeveloper may deem necessary to determine the suitability of the soil conditions and other physical conditions of the Property for redevelopment consistent with the Plan. If the results of such audits, tests, or studies are unsatisfactory in Redeveloper's reasonable opinion, Redeveloper may, at its option terminate this Agreement by giving the City written notice of termination before expiration of the Feasibility Review Period and restoring the Property to the condition prior to the Feasibility Studies. In the event of such termination, then the Redeveloper shall surrender to the City copies of all Feasibility Studies and any other related reports prepared for the Redeveloper pertaining to the Property and said reports shall become the sole property of the City without cost or expense of the City, and this Agreement shall terminate and be without any further force and effect, and without further obligation to either party to the other.

Section 812. Bank. References in this Agreement to Cornhusker Bank shall mean Cornhusker Bank of Lincoln, Nebraska, or any other bank selected by the Redeveloper.

Section 813. Definitions.

A. For the purpose of this Agreement, the term "holder" in reference to a mortgage shall be deemed to include any insurer or guarantor of any obligation or conditions secured by such mortgage or similar type of encumbrance who succeeds to or becomes subrogated to the rights of the mortgagee.

B. The term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien as security for a loan.

Executed this _____ day of _____, 2001.

ATTEST:

CITY OF LINCOLN, NEBRASKA
a Municipal Corporation

City Clerk

Don Wesely, Mayor

Executed by TJK Investments, Inc., this 12th day of MARCH, 2001.

TJK Investments, Inc.
a Nebraska Corporation

By: _____

Kris Sonderup

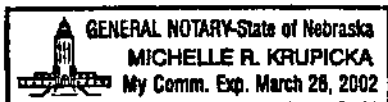
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ of _____, 2001.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 12th day of MARCH, 2001 by Mr. Kris Sonderup, representative of TJK Investments, Inc., a Nebraska Corporation, on behalf of the Nebraska Corporation.



Michelle R. Krupicka
Notary Public

ATTACHMENT "A"
LEGAL DESCRIPTION

Keystone Addition, Block 1, Lots 1 through 5, except street right of way, Lincoln, Lancaster County, Nebraska

Hawley's Addition, Lot A except street right of way and a portion of Lot B, Hawley's Addition, more particularly described as follows:

Beginning at the southeast corner of Lot B; thence North $90^{\circ} 00' 00''$ West, (assumed), on the South line of Lot B, a distance of 81.22 feet; thence North $00^{\circ} 37' 37''$ East, a distance of 46.0 feet; thence North $89^{\circ} 59' 55''$ East, a distance of 81.0 feet to a point on the Westerly right-of-way line of North 27th Street and the Point of Curvature of a curve to the left, having a central angle of $00^{\circ} 27' 34''$, an arc length of 46.0 feet, a radius of 5,736.08 feet, a chord bearing South $00^{\circ} 21' 10''$ West and a chord length of 46.0 feet; thence on said curve a distance of 46.0 feet to the Point of Beginning and containing a calculated area of 3,729.62 square feet or 0.085 acres more or less.

ATTACHMENT "B"

**REDEVELOPER'S
CERTIFICATE OF COMPLETION OF IMPROVEMENTS**

KNOW ALL MEN BY THESE PRESENTS: That the undersigned certifies, represents and warrants to the City of Lincoln, Nebraska, the conclusive determination and certification with regard to the following real property situated in the City of Lincoln, Lancaster County, Nebraska, to wit:

[INSERT LEGAL DESCRIPTION], Lancaster County, Nebraska,

that the Private Improvements required to be constructed by the Redeveloper upon the above described property have been satisfactorily completed in accordance with the requirements of the Redevelopment Agreement dated the _____ day of _____, 2001, and recorded as Instrument No. 00-_____ in the office of the Register of Deeds for Lancaster County, Nebraska.

[NAME OF REDEVELOPER]

By: _____

Name: _____

Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001, by _____ of _____, a Nebraska _____, on behalf of the _____.

Notary Public

ACCEPTED by the City of Lincoln, Nebraska, this ____ day of _____, 2001.

ATTEST:

CITY OF LINCOLN, NEBRASKA
a Municipal Corporation

City Clerk

Mayor Don Wesely

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001, by Don Wesely, Mayor of the City of Lincoln, Nebraska.

Notary Public

ATTACHMENT "C"

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS (The "Declaration") is made this _____ day of _____, 2001, by TJK Investments, Inc., a Nebraska corporation.

RECITAL

WHEREAS, TJK Investments, Inc. is the owner of that certain parcel of land legally described as follows:

[INSERT NAME OF SUBDIVISION], Lancaster County, Nebraska;

WHEREAS, TJK Investments, Inc. desires to grant certain restrictions as covenants running with the land, subject to the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the recitals set forth above and the representations, warranties and covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, TJK Investments, Inc., hereto agrees as follows:

1. Restrictions on Use. No portion of the property shall be used, directly or indirectly, for purposes of the operation of 1) any business in which alcoholic beverages are sold for consumption on or off the premises, except for a business holding a liquor license designated as Class J under Nebraska Law (or any successor designation to the current Class J) may sell alcoholic beverages in accordance with their license. 2) any outdoor off-premise advertising specifically including billboards, signboards and related structures and appurtenances, except temporary signs advertising such lot is for sale or lease by the owner thereof, 3) any adult bookstore, adult theater, adult amusement facility, or 4) any facility selling or displaying pornographic materials or having such displays.

2. Covenants to Run with Land. It is intended that each of the restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefitted thereby, shall bind every person having any fee, leasehold or other interest therein, and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

3. Remedies and Enforcement.

All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by the owner of such owner's tenants or their employees, agents,

contractors, customers, invitees, or licensees, of any of the terms, covenants, restrictions or conditions hereof, the City shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year first above written.

TJK Investments, Inc.
A Nebraska corporation

By: 

Kris Sonderup

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001, by Kris Sonderup, representative of TJK Investments, Inc.

Notary Public